

## IN THE SUPREME COURT OF THE STATE OF MONTANA

No. AF 07-0016

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IN RE PROPOSED CHANGES TO RULE 7 OF THE )  
MONTANA RULES OF APPELLATE PROCEDURE ) O R D E R  
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The Court is considering changing M. R. App. P. 7, regarding mandatory appellate alternative dispute resolution, to allow the parties to an appeal subject to that rule a second opportunity to select their own appellate mediator. In that regard, the Court is considering adding the language that is highlighted below to M. R. App. P. 7(4)(d):

**Rule 7. Mandatory appellate alternative dispute resolution.**

. . .

**(4) Selection or appointment and payment of mediator - immunity.**

. . .

(d) In the event the parties do not voluntarily and timely select a mediator, the clerk of the supreme court shall appoint as a mediator for the appeal the next self-nominated attorney on a list maintained by the clerk for that purpose pursuant to section (4)(e) of this rule. The order of appointment, substantially complying with Form 6 in the Appendix of Forms, shall be signed by the clerk of the supreme court and served upon the mediator and the parties to the appeal. The parties may substitute a mediator of their choice for the mediator appointed by the clerk only if, within 10 days of the clerk's appointment, they file a written stipulation signed by all parties agreeing upon a substitute mediator. The parties must also serve a copy of such a stipulation upon the mediator appointed by the clerk.

IT IS ORDERED that public comments will be accepted on the above proposed change to M. R. App. P. 7 for 90 days following the date of this Order. Such comments shall be filed, in writing, with the Clerk of this Court.

IT IS FURTHER ORDERED that this Order shall be published on the Montana Supreme Court website and that notice of this Order shall be posted on the website of the State Bar of Montana and in the next available issue of the *Montana Lawyer*.

The Clerk is directed to provide copies of this Order to the Montana State Law Library and the State Bar of Montana. The Clerk is further directed to provide a copy of this Order to the Chair of the Advisory Commission on Rules of Civil and Appellate Procedure.

DATED this 30<sup>th</sup> day of November, 2010.

/S/ MIKE McGRATH  
/S/ MICHAEL E WHEAT  
/S/ W. WILLIAM LEAPHART  
/S/ PATRICIA COTTER  
/S/ BRIAN MORRIS  
/S/ JAMES C. NELSON  
/S/ JIM RICE